FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

CRIMINAL APPEAL NO. 923 OF 2003.

The State of Maharashtra. ... Applellant.
vs.
Shashishekhar Sahebrao Dhumal
& anr. ... Respondents.

Office Notes,Office Memoranda of Coram, appearnaces,Courts's orders or directions and Registrar's orders.	:	Court's or Judge's orders

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Shri A.S. Shitole, A.P.P. for the Appellant-State.

None for the respondents.

CORAM: V.M. KANADE,J.

DATED: 24.1.2005.

P.C.:

1. Heard learned A.P.P.for the State.

None appears for the respondents.

2. Record and proceedings were called for in the present case. The learned A.P.P. has taken me through the judgment and order of the trial Court and the notes of evidence from the record and proceedings. The prosecution case in

brief is that the wife of the accused committed suicide because he made enquiries about her sister with his father-in-law. The prosecution case is that the father in law of the accused had asked him to look for a bridegroom for the younger sister of the deceased. The prosecution has relied upon 3 dying declarations which were recorded by the police.

3. The learned A.P.P. has taken me through the dying declarations which are recorded by the police. From perusal thereof, it appears that there have been alterations made in the said dying declarations regarding the time when they were recorded. There is no endorsement made by the doctor that the patient was in fit physical and mental condition to record statement. There are other inconsistencies in these 3 dying declarations.

4. The law on this point is well settled right from **Khushalrao's** case and it has been held by the Apex Court that the prosecution cannot pick and choose one

dying declaration out of number of dying declarations. The Apex Court has observed that if there are inconsistencies in the various dying declarations, conviction cannot be based on one of such dying declaration without there being any corroboration in the form of other evidence.

5. The trial Court has given cogent reasons for acquitting the accused of the offence punishable under section 306 read with section 498-A of the Indian Penal Code. In my view, this is not a fit case which calls for any interference by this Court. The judgment and order of the trial Court is confirmed. Leave is refused. Appeal is accordingly dismissed.